REMARKS

Claim Objections

Claim 14 line 6 has been amended to replace the term "the" (first occurrence) with "a" in order to avoid a lack of proper antecedent basis for "the sample".

Claim Rejections- 35 USC§ 102

Claims 14, 16 and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,656,473 to Sodickson et al. ("Sodickson"). The rejection is respectfully traversed as to the amended claims.

Claim 14 recites a method of achieving accurate machine reading on a tube. This process involves the use of a tube, which is made with an alignment key, which has an array of information imparted onto the cylindrical side wall of the tube by prior to any sample collection. The tube is then used to collect a sample of biological fluid after which the tube is positioned in a laboratory apparatus such that said alignment key engages an alignment structure on said laboratory apparatus, thereby allowing said laboratory apparatus to read said information on said tube from a specified angular position relative to said alignment key.

In the office action the Examiner states that all the elements of original Claim 14 are disclosed in Sodickson. The Examiner has considered applicant's previous arguments as to the differences between the claims of the present invention and Sodickson and has stated that they are not persuasive. With respect to applicants argument that the elements of Sodickson's method are dissimilar and in a different order when compared to the elements of amended Claim 14, the Examiner requests that applicants identify the specific teachings in Sodickson upon which they are relying.

First, Applicants cite Claim 1 of Sodickson (Column 4, Line 6) which states that a specimen from the patient is drawn into a specimen container having a blank label area, after which the tube is inserted into the apparatus where the label is then impressed with the encoded patient identification data. The encoded label is then scanned immediately after the impressing step, to check for errors in the patient identification data.

Second, Applicants submit herewith a Declaration under 37 C.F.R. §1.132 from Mr. Nick Conti which states that Sodickson teaches and suggests to one of ordinary skill in the art, that the process described in the patent be performed in the order set out in claim 1 of that patent.

Therefore Sodickson does not recite each element of applicant's claimed method. For these reasons, applicants submit that Claim 14, as amended, and its dependent claims are not anticipated by the cited reference.

Claim Rejections- 35 USC§ 103

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sodickson et al. as applied to Claim 14 above and further in view of U.S. Patent No. 3,350,946 to Isreeli ("Isreeli").

Sodickson does not render Claim 14 as obvious. As discussed above Sodickson teaches and suggests to one skilled in the art that the specimen container must be impressed by the encoded patient identification data after the specimen has been placed in the container. This teaches away from Applicant's claimed method, which mandates that a tube must contain data before the specimen is collected. The patient and tube are not correlated until after the specimen collection.

Isreeli does not remedy the shortcomings of Sodickson. Isreeli is relied on only for its showing of an substantially planar fin (alignment key) lying in a plane passing through the longitudinal axis of the tube, the method comprising of engaging said fin in a slot formed in the laboratory apparatus.

Claims 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sodickson et al. as applied to Claim 14 above and further in view of U.S. Patent No. 5,670,117 to Erb et al. ("Erb").

Sodickson does not render Claims 18-20 as obvious, for exactly the same reasons as stated previously on page 6.

Erb does not remedy the shortcomings of Sodickson. Erb is relied on only for its showing that one-dimensional bar codes, two-dimensional bar codes, magnetic strips and printed alphanumeric symbols can be used as identification marks to identify a tube.

In view of the amendments and remarks above, applicants respectfully request reconsideration of the application, and allowance of all claims.

If there are any additional fees related to this Amendment, such fees should be charged to Deposit Account No. 02-1666.

Respectfully submitted,

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Doc# 80180v1